

### REMARKS

Claims 1, 8 and 14 have been amended. Claims 1-20 remain pending. No new matter has been added.

#### Rejection Under 35 U.S.C. §102(b)

##### Claims 1-20

Claims 8-13 are rejected under 35 U.S.C. §102(b) as being anticipated by Baba Yoshiyuki (Japan 2001-243089) hereinafter “Yoshiyuki”. Applicant respectfully submits that embodiments of the present invention are neither taught nor anticipated by Yoshiyuki.

Applicant respectfully submits “A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” /Verdegaal Bros. v. Union Oil Co. of California/, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). ... “The identical invention must be shown in as complete detail as is contained in the ... claim.” /Richardson v. Suzuki Motor Co./, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

Applicant has reviewed Yoshiyuki and respectfully contends that Yoshiyuki fails to anticipate each and every element as set forth in Claims 1, 8 and 14. With respect to Claims 1, 8 and 14, Applicant provides that Claims 1, 8 and 14 include the features, “querying said common information point to determine said status information comprising identification of any of said plurality of test portions that were completed by said test system prior to said reinstalling of said operating system and any remaining of said plurality of test portions; and resuming said software test at a first of said remaining of said plurality of test portions after said reinstallation of said operating system” (emphasis added).

On page 3 lines 8-16, the present Office Action states that Yoshiyuki provides “[q]uerying said common information point to determine said status information comprising identification of any of said plurality of test portions that were completed by said test system prior to said reinstalling of said operating system (section 0009, 0010, 0005, break point, then rerun the OS) and any remaining of said plurality of test portions (section 0010, rerun the test with break up that hang-up occurs or stopped); and resuming said software test at a first of said remaining of said plurality of test portions after said reinstallation of said operating system (section 0004, 0005, 0024, rerun the OS for test)” (emphasis added).

Applicant points out that the present Office Action clearly states that Yoshiyuki teaches “section 0010, rerun the test with break up that hang-up occurs or stopped” (emphasis added). That is, Applicant agrees with the assertions on page 3 of the present Office Action that Yoshiyuki does not anticipate “resuming said software test at a first of said remaining of said plurality of test portions after said reinstallation of said operating system” instead, Applicant also understands Yoshiyuki to teach and anticipate, rerunning the test with break up that hang-up occurs or stopped (emphasis added).

Therefore, in contrast with the present claimed feature of resuming the software test at a first of said remaining of said plurality of test portions; Yoshiyuki anticipates repeating test portions that resulted in a break point or failure. Further, Applicant has reviewed paragraphs 0004-0005 of Yoshiyuki and understands Yoshiyuki to anticipate when a failure is judged, then a part or all of a test program is rerun. In fact, Applicant understands the teachings of Yoshiyuki to provide the repetition of the test program failure portion can be used to pinpoint the part in failure.

As such, Applicant respectfully submits that Yoshiyuki fails to anticipate the claimed features “querying said common information point to determine said status information comprising identification of any of said plurality of test portions that were completed by said test system prior to said reinstalling of said operating system and any remaining of said plurality of test portions; and resuming said software test at a first of said remaining of said plurality of test portions after said reinstallation of said operating system” (emphasis added).

Therefore, since Yoshiyuki fails to anticipate each and every element as recited in Independent Claims 1, 8 and 14, Applicant respectfully submits that Independent Claims 1, 8 and 14 overcome the rejection under 35 U.S.C. §102(b), and are thus in condition for allowance.

With respect to Claims 2-7, Claims 9-13 and Claims 15-20, Applicant respectfully points out that Claims 2-7, Claims 9-13 and Claims 15-20 depend from allowable independent Claims 1, 8 and 14 and recite further embodiments of the present claimed invention. Therefore, Applicant respectfully submits that Claims 2-7, Claims 9-13 and Claims 15-20 overcome the rejection under 35 U.S.C. §102(b), and that these claims are thus in a condition for allowance as being dependent on an allowable base claim.

CONCLUSION

In light of the above remarks, Applicant respectfully requests allowance of Claims 1-20.

The Examiner is invited to contact Applicant's undersigned representative if the Examiner believes such action would expedite resolution of the present application.

Respectfully submitted,  
Wagner Blecher LLP

Dated: 11/06/2007



John P. Wagner Jr.  
Registration No. 35,398

Westridge Business Park  
123 Westridge Drive  
Watsonville, California 95076

(408) 377-0500